101-627

FISHERY CONSERVATION AMENDMENTS OF 1990

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Public Law 101-627
101st Congress

An Act

Nov. 28, 1990
[H.R. 2061]

To authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fishery Conservation Amendments of 1990.

16 USC 1801 note.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

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TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

SEC. 101. (a) FINDINGS.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) PURPOSES.—(1) Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) POLICY.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4); and

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation; and"; and

(4) by adding at the end the following new paragraph:

"(6) to foster and maintain the diversity of fisheries in the United States.".

DEFINITIONS

SEC. 102. (a) GENERAL.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraph (16) as paragraph (17), by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) in paragraph (7), by striking ", birds, and highly migratory species" and inserting in lieu thereof "and birds";

(3) by amending paragraph (14) to read as follows:

"(14) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(4) by inserting immediately after paragraph (15) the following new paragraph:

"(16) The term 'large-scale driftnet fishing' means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) by inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;

"Bigeye Tuna—Thunnus obesus;

"Bluefin Tuna—Thunnus thynnus;

"Skipjack Tuna—Katsuwonus pelamis; and

"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1)) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

SEC. 103. (a) GENERAL.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) CONFORMING AMENDMENT.—The entry for section 102 in the table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992. 16 USC 1812 note.

FOREIGN FISHING

SEC. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly

migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation with the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(A) in paragraph (1) by striking "traditional" and by inserting "including fisheries for tuna species," immediately after "authority,"; and

(B) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

Effective date. 16 USC 1825 note.

(2) The amendments made by this subsection shall take effect on January 1, 1992.

PERMITS FOR FOREIGN FISHING

SEC. 106. (a) FEES.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in

consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.".

(b) SANCTIONS.—Section 204(b)(12) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

SEC. 107. (a) GENERAL.—Section 206 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"SEC. 206. LARGE-SCALE DRIFTNET FISHING.

Driftnet Act Amendments of 1990.

"(a) SHORT TITLE.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) FINDINGS.—The Congress finds that—

"(1) the continued widespread use of large-scale driftnets beyond the exclusive economic zone of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans, including but not limited to the North and South Pacific Ocean and the Bering Sea;

"(2) the use of large-scale driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

"(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished large-scale driftnets and in large-scale driftnets that are lost, abandoned, or discarded;

"(4) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of large-scale driftnet fishing on living marine resources;

"(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of large-scale driftnets beyond the exclusive economic zone of any nation;

"(6) the nations of the South Pacific have agreed to a moratorium on the use of large-scale driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989; and

"(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation.

"(c) POLICY.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Tarawa Declaration and the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

"(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) INTERNATIONAL AGREEMENTS.—The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement immediately the findings, policy, and provisions of this section, and in particular an international ban on large-scale driftnet fishing. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

"(1) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

"(2) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(3) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by large-scale driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(4) officials of the United States have the right to board and inspect for violations of the agreement any large-scale driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(5) all catch landed or transshipped at sea by large-scale driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(6) time and area restrictions are imposed on the use of large-scale driftnets in order to prevent interception of anadromous species;

"(7) all large-scale driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(8) all large-scale driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

"(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United

States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of large-scale driftnets beyond the exclusive economic zone of any nation.

"(e) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the provisions of this section, particularly subsection (c);

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

"(6) containing a list of the nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

"(f) CERTIFICATION.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (e)(6), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(g) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.

"(h) DEFINITION.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.".

(b) CONFORMING AMENDMENT.—The entry for section 206 in the table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Large-scale driftnet fishing.".

REGIONAL COUNCILS

SEC. 108. (a) AUTHORITY OVER CERTAIN FISHERIES.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) MEMBERS' QUALIFICATIONS.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

Regulations.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

Reports.

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each

applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) LIMITATION ON TERMS OF VOTING MEMBERS.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term completed prior to January 1, 1986, shall not be counted in determining the number of consecutive terms served by any Council member.".

(d) COMPENSATION AND EXPENSES.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended to read as follows:

"(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall, until January 1, 1992, receive compensation at the daily rate for GS-18 of the General Schedule, and after December 31, 1991, at the daily rate for GS-16 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.".

(e) TRANSACTION OF BUSINESS.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(4)) is amended by adding at the end the following new sentence: "The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) COMMITTEES AND PANELS.—Section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) is amended by adding at the end the following new paragraph:

"(3)(A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

"(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

"(4) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.".

(g) COUNCIL FUNCTIONS.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) FISHERY HABITAT CONCERNS.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) FISHERY HABITAT CONCERNS.—(1) Each Council—

"(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) CLOSED MEETINGS.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(D) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subpararaph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) CONSIDERATION OF NEW INFORMATION.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consider-

ation to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.".

(k) INTERIM MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which— 16 USC 1854 note.

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

SEC. 109. (a) REQUIRED DATA COLLECTION AND GEAR.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting ", to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacen areas under the authority of another Council, after con sultation with such Council and representatives of thos participants.".

(b) DISCRETIONARY PROVISIONS.—(1) Paragraph (1) of section 303(b of the Magnuson Fishery Conservation and Management Act (1 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paic to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, o wishing to fish, in the exclusive economic zone or for anad romous species or Continental Shelf fishery resource beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receive fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data which are necessary for the conservation and management o the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation o the vessel would be jeopardized;".

(c) CONFIDENTIALITY OF STATISTICS.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph:

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

(d) USE OF CERTAIN DATA.—Section 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853) is further amended by adding at the end the following new subsection:

"(f) RESTRICTION ON USE OF CERTAIN DATA.—The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.". Regulations.

ACTION BY SECRETARY ON FISHERY MANAGEMENT PLANS

SEC. 110. (a) FISHERIES RESEARCH.—Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) FISHERIES RESEARCH.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall— Federal Register, publication.

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2);

"(B) indicate the goals and timetables for the program described in subparagraph (A); and

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

"(2) The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.". Federal Register, publication.

(b) MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—(1) Section 304(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(f)) is amended—

(A) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(B) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

(c) INCIDENTAL HARVEST RESEARCH.—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended by adding at the end the following new subsection.

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Regulations.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

Reports.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technological device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1994.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based primarily on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce is encouraged to prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

SEC. 111. (a) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) JUDICIAL REVIEW OF CERTAIN IMPLEMENTING ACTIONS.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 45 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

STATE JURISDICTION

SEC. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and

"(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBITION OF CERTAIN ACTS

SEC. 113. (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND LARGE-SCALE DRIFTNET FISHING.—Section 307(1) of the Magnuson

Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly steal, or without authorization, to remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear,

or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in large-scale driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation; or

"(N) to strip pollock of its roe and discard the flesh of the pollock.".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (4) by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any

fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 in the table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions.".

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1) (D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws, as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. (a) Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN. 16 USC 1862.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the

jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

Regulations. Federal Register, publication.

"(2) During the 60-day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.".

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 120. (a) INTERNATIONAL FISHERY AGREEMENTS.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking "a exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) FOREIGN FISHING PERMITS.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) COUNCIL PROCEDURAL MATTERS.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) ACTION BY SECRETARY.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

SEC. 201. (a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

16 USC 971a note.

(b) APPLICATION TO CURRENT COMMISSIONERS.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

16 USC 971a note.

President.

SEC. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate March 1, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

SEC. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

SEC. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

SEC. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"SEC. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.". 16 USC 971b-1.

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

SEC. 206. (a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention. Regulations.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

RECOMMENDED COMMISSION ACTIONS REGARDING LARGE-SCALE DRIFTNET FISHING AND CONSERVATION OF ATLANTIC SWORDFISH

SEC. 207. Section 6(d) of the Altantic Tunas Convention Act of 1975 (16 U.S.C. 971d(d)) is amended to read as follows:

"(d)(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fish-

ing (as that term is defined in section 3(16) of the Magnuson Fishery Conservation and Management Act) in the Convention area.

"(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $2,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

SEC. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

SEC. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by inserting "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

SEC. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, and 1993".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

SEC. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

SEC. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

16 USC 4004 note.

SEC. 704. (a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotional Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 207(a)(5) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments."

CONTINUITY OF COUNCIL FUNCTIONS, CONTRACTS, AND PERSONNEL

16 USC 4005 note.

SEC. 705. All current functions, contracts in force, and existing personnel of the National Fish and Seafood Promotional Council as of September 30, 1990, are reauthorized and extended, and shall continue as if uninterrupted, notwithstanding section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) as in effect on September 30, 1990.

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

16 USC 1822 note.

SEC. 801. (a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,000, or the equivalent, in

import or export trade in anadromous fish and anadromous fish products.

(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

DOLPHIN PROTECTION

Dolphin Protection Consumer Information Act. 16 USC 1835.

SEC. 901. (a) SHORT TITLE.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) FINDINGS.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that such driftnets have on marine mammals, including dolphins; and

(3) consumers would like to know if the tuna they purchase is falsely labeled as to the effect of the harvesting of the tuna on dolphins.

(c) DEFINITIONS.—For purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) LABELING STANDARD.—(1) It is a violation of section 5 of the Federal Trade Commission Act for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term "Dolphin Safe" or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing; or

(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (2).

(2) For purposes of paragraph (1)(B), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its purse seine nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna certifying that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by—

(I) the Secretary or the Secretary's designee, or

(II) a representative of the Inter-American Tropical Tuna Commission,

which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product.

Fraud.

(e) ENFORCEMENT.—Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) that is false is liable for a civil penalty of not to exceed $100,000

assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.

(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with subsection (d).

(g) TREATMENT OF FISH CAUGHT WITH DRIFTNETS.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E)(i) except as provided in clause (ii), in the case of fish or products containing fish harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a large-scale driftnet in the South Pacific Ocean after July 1, 1991, or in any other water of the high seas after July 1, 1992, and

"(ii) in the case of tuna or a product containing tuna harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the tuna or tuna product was not harvested with a large-scale driftnet anywhere on the high seas after July 1, 1991.

For purposes of subparagraph (E), the term "driftnet" has the meaning given such term in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note).".

(h) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(i) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect 6 months after the date of the enactment of this Act.

TITLE X—FISHERIES COMMISSION

REDESIGNATION OF FISHERIES COMMISSION

SEC. 1001. (a) IN GENERAL.—The Congress consents to and approves of the amendments described in subsection (b) to the interstate compact which constituted the Pacific Marine Fisheries Commission, approved by the Act of July 24, 1947 (61 Stat. 419; hereinafter in this section referred to as the "compact"). 16 USC 1802 note.

(b) AMENDMENT DESCRIBED.—The amendments referred to in subsection (a) are the amendments approved and ratified before the effective date of this section by the contracting States to the compact, which—

(1) amend Article III of the compact to redesignate the Pacific Marine Fisheries Commission as the "Pacific States Marine Fisheries Commission"; and

(2) make such other amendments to the compact as are necessary solely to conform the text of the compact to the amendment described in paragraph (1).

16 USC 1802.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Pacific Marine Fisheries Commission constituted by the compact is deemed to be a reference to the "Pacific States Marine Fisheries Commission".

TITLE XI—REPORT ON MARINE MAMMALS

REPORT ON MARINE MAMMAL POPULATIONS

16 USC 1373 note.

SEC. 1101. The Secretary of Commerce, in consultation with the Secretary of the Interior, shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives within 12 months after the date of enactment of this Act a report—

(1) assessing population sizes and trends of harbor seals, sea otters, California sea lions, and northern sea lions off the coast of the State of Washington, which assessment shall include the historic, present, and projected population sizes and the overall health of current populations of such marine mammals;

(2) assessing the effectiveness of sections 101(a)(3)(A) and 109(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(A) and 1379(h)) with particular emphasis on the management of the lower Columbia River and Puget Sound marine mammal populations, which assessment shall describe how the agencies are interpreting and implementing such sections, how often such sections have been invoked, and whether such sections have been effective in the management of marine mammal populations and in responding to the problems which such sections were intended to address; and

(3) specifying long range management plans for the species of marine mammals listed in paragraph (1).

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 2061 (S. 1025):

HOUSE REPORTS: No. 101-393 (Comm. on Merchant M[illegible]ine and Fisheries).
SENATE REPORTS: No. 101-414 accompanying S. 1[illegible]5 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 6, considered and passed House.
Oct. 11, considered and passed Senate, amended, in lieu of S. 1025.
Oct. 23, House concurred in Senate amendments with an amendment.
Oct. 27, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 28, Presidential statement.

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